

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

BASF PLANT SCIENCE, LP,)
Plaintiff,)

v.)

COMMONWEALTH SCIENTIFIC AND)
INDUSTRIAL RESEARCH)
ORGANISATION,)
Defendant.)

C.A. No. 2:17-CV-503-HCM

COMMONWEALTH SCIENTIFIC AND)
INDUSTRIAL RESEARCH)
ORGANISATION, GRAINS RESEARCH)
AND DEVELOPMENT CORP., and)
NUSEED PTY LTD.,)
Plaintiffs-Counterclaimants,)

Patent Case

v.)

BASF PLANT SCIENCE, LP, and)
CARGILL, INCORPORATED,)
Defendants-Counterdefendants.)

BASF PLANT SCIENCE GMBH, and)
BASF PLANT SCIENCE, LP,)
Plaintiffs-Counterclaimants,)

v.)

COMMONWEALTH SCIENTIFIC AND)
INDUSTRIAL RESEARCH)
ORGANISATION, GRAINS RESEARCH)
AND DEVELOPMENT CORP., and)
NUSEED PTY LTD.,)
Defendants-Counterdefendants.)

JURY VERDICT FORM

In this Verdict Form:

"CSIRO" refers to the Commonwealth Scientific and Industrial Research Organisation.

"GRDC" refers to Grains Research and Development Corp.

"Nuseed" refers to Nuseed Party Ltd.

"The Proponents" refers to CSIRO, GRDC, and Nuseed, collectively.

"BASF" refers to BASF Plant Science, GmbH and BASF Plant Science, LP.

"Cargill" refers to Cargill Incorporated.

"The Opponents" refers to BASF and Cargill, collectively.

The "'357 Patent" refers to U.S. Patent No. 9,951,357.

The "'579 Patent" refers to U.S. Patent No. 9,926,579.

The "'880 Patent" refers to U.S. Patent No. 9,994,880.

The "'033 Patent" refers to U.S. Patent No. 9,970,033.

The "'792 Patent" refers to U.S. Patent No. 9,994,792.

The "'541 Patent" refers to U.S. Patent No. 9,932,541.

The "'084 Patent" refers to U.S. Patent No. 10,125,084.

The "Patents-in-Suit" refers collectively to the '357 Patent, the '579 Patent, the '880 Patent, the '033 Patent, the '792 Patent, the '541 Patent, and the '084 Patent.

The "Asserted Claims" refers collectively to claims 1 and 33 of the '357 Patent, claim 5 of the '579 Patent, claims 2 and 10 of the '880 Patent, claim 5 of the '033 Patent, claim 4 of the '792 Patent, claim 20 of the '541 Patent, and claim 1 of the '084 Patent.

Section I – Infringement

The Opponents stipulated that they satisfy every limitation of claims 1 and 33 of the '357 Patent, claim 5 of the '579 Patent, claims 2 and 10 of the '880 Patent, claim 5 of the '033 Patent, claim 4 of the '792 Patent, and claim 1 of the '084 Patent, and therefore infringement is not disputed for these claims.

Do you find by a preponderance of the evidence that the Opponents have infringed Claim 20 of the '541 Patent? (Answer "YES" or "NO".)

YES ✓
(in favor of CSIRO/Nuseed/GRDC)

NO _____
(in favor of BASF/Cargill)

Section II – Obviousness

The Opponents do not contest the validity of claim 20 of the '541 Patent, and therefore validity is not disputed for that claim.

Do you find that the Opponents have proven by clear and convincing evidence that any of the following Asserted Claims of the Patents-in-Suit is obvious? (Answer "YES" or "NO" to each claim.)

Asserted Patent Claims	YES (in favor of BASF/Cargill)	NO (in favor of CSIRO/Nuseed/GRDC)
Claim 1 of the '357 Patent		✓
Claim 33 of the '357 Patent		✓
Claim 5 of the '579 Patent		✓
Claim 2 of the '880 Patent		✓
Claim 10 of the '880 Patent		✓
Claim 4 of the '792 Patent		✓
Claim 5 of the '033 Patent		✓

Section III – Written Description

Have Opponents (BASF and Cargill) proven by clear and convincing evidence that the following patent claims are invalid for lack of written description?

Asserted Patent Claim	Yes (in favor of BASF/Cargill)	No (in favor of CSIRO/Nuseed/GRDC)
'579 Patent Claim 5		✓
'357 Patent Claim 1		✓
'357 Patent Claim 33		✓
'033 Patent Claim 5		✓
'880 Patent Claim 2		✓
'880 Patent Claim 10		✓
'792 Patent Claim 4		✓
'084 Patent Claim 1	✓	



Section IV – Breach of Contract**Materials Transfer and Evaluation Agreement**

Do you find that BASF has proven by a preponderance of the evidence that BASF is a co-owner of any of the following Patents-in-Suit below? (Answer "YES" or "NO" to each patent.)

Asserted Patents	YES (in favor of BASF/Cargill)	NO (in favor of CSIRO/Nuseed/GRDC)
the '357 Patent		✓
the '579 Patent		✓
the '880 Patent		✓
the '792 Patent	✓	
the '084 Patent		✓
the '033 Patent		✓
the '541 Patent		✓

Section V - Conception

Have Proponents (CSIRO, Nuseed and GRDC) established, with corroborating evidence, that claim 1 of the '357 patent or claim 2 of the '880 patent were conceived by the inventors as of February 2003?

Asserted Patent Claims	YES (in favor of CSIRO/Nuseed/GRDC)	NO (in favor of BASF/Cargill)
the '357 Patent		
the '880 Patent		

Pursuant to the E-Government Act,
the original of this page has been filed
under seal in the Clerk's Office.

FINAL PAGE OF JURY VERDICT FORM

You have now reached the end of the Verdict Form and should review it to ensure it accurately reflects your unanimous determinations. After you are satisfied that your unanimous answers are correctly reflected above, your Jury Foreperson should then sign and date this Verdict Form in the spaces below. Once that is done, notify the Court Security Officer that you have reached a verdict.

Signed this 1st day of November, 2019.

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